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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,105	08/26/2003	Peter G. Webb	10004004-3	5480

7590 09/26/2005
AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

EXAMINER

KIM, YOUNG J

ART UNIT	PAPER NUMBER
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1637

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/649,105

Applicant(s)

WEBB, PETER G.

Examiner

Young J. Kim

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-22 and 24-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-22, 24, 25 and 29-34 is/are allowed.
- 6) ☒ Claim(s) 26-28 is/are rejected.
- 7) ☒ Claim(s) 20, 22 and 28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/26/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

Art Unit: 1637

DETAILED ACTION

Preliminary Remark

The preliminary amendment received on August 26, 2003, canceling claims 1-19 and 23; and adding claims 29-34 is acknowledged.

Claims 20-22 and 24-34 are pending and are under prosecution therefore.

Information Disclosure Statement

The IDS received on August 26, 2003 is acknowledged.

A signed copy of the PTO-1449 is attached hereto.

Drawings

The drawings received on August 26, 2003 are acceptable.

Claim Objections

Claims 20, 22, and 28 are objected for missing a conjunction after step (b).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 26-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 26 recites the phrase, "[a] computer program product *for use with an apparatus* for fabricating multiple arrays..." but the claims define an apparatus and not what the computer program product does. As the phrase, "for use" is an intended use limitation not given patentable weight, and the rest of the steps are drawn to apparatus, but not what the computer program product executes, the claim has been interpreted to be drawn to any computer program product for the purpose of prosecution.

Claims 27 and 28 are indefinite by way of their dependency on claim 26.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 26-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 26-28 are drawn to a computer program product which directs the apparatus elements to move as recited in the claims, thus functional descriptive material. However, the computer program product is not comprised on a computer readable medium.

MPEP 2106(IV)(B)(1) states that "descriptive material" is nonstatutory when claimed as descriptive material *per se*. However, when functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

Amending the claims to recite the phrase, "a computer program product, comprised on a computer readable medium," would overcome this rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Lipshutz et al. (U.S. Patent No. 5,737,729, issued March 31, 1998).

The instant rejection is predicated in the claim interpretation assumed above.

Lipshutz et al. discloses a computer program product (*see* claim 17).

Lipshutz et al. anticipate the invention as claimed therefore.

Conclusion

Claims 20-22, 24, 25, and 29-34 are free of prior art as the prior art neither teaches or suggests an apparatus which fabricates multiple arrays, wherein the dispenser of the head system deposits a drop set at a distance ahead of a drop set deposited by a preceding dispenser set which is less than the distance to the successive drop dispenser set which deposits the next drop set. The prior art also does not teach a method of fabricating multiple arrays wherein the head

Art Unit: 1637

system, while in one position, deposits drop sets from different dispenser sets for feature sets of different positions within multiple arrays.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kowallis et al. (WO 99/22867, published May 14, 1999) disclose a method of making a plurality of arrays. However, Kowallis et al. do not disclose a method of making a plurality of arrays in which the each dispenser of the head system deposits a drop set at a distance ahead of a drop set deposited by a preceding dispenser set.

Inquiries

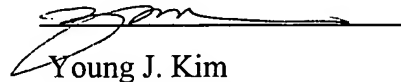
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Young J. Kim whose telephone number is (571) 272-0785. The Examiner is on flex-time schedule and can best be reached from 8:30 a.m. to 4:30 p.m. The Examiner can also be reached via e-mail to Young.Kim@uspto.gov. However, the office cannot guarantee security through the e-mail system nor should official papers be transmitted through this route.

If attempts to reach the Examiner by telephone are unsuccessful, the Primary Examiner in charge of the prosecution, Dr. Kenneth Horlick, can be reached at (571) 272-0784. If the attempts to reach the above Examiners are unsuccessful, the Examiner's supervisor, Dr. Gary Benzion, can be reached at (571) 272-0782.

Papers related to this application may be submitted to Art Unit 1637 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official

Art Unit: 1637

Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 CFR 1.6(d)). NOTE: If applicant does submit a paper by FAX, the original copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED, so as to avoid the processing of duplicate papers in the Office. All official documents must be sent to the Official Tech Center Fax number: (571) 273-8300. For Unofficial documents, faxes can be sent directly to the Examiner at (571) 273-0785. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600.



Young J. Kim
Patent Examiner
Art Unit 1637
9/15/2005

**YOUNG J. KIM
PATENT EXAMINER**

yjk